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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ADALBERTO REYES-RIVERA,

Defendant.

MEMORANDUM DECISION AND  
ORDER DENYING WITHOUT  
PREJUDICE DEFENDANT’S MOTION  
REQUESTING PRODUCTION OF  
DOCUMENTS FOR DEFENSE  
CRIMINAL CASE

Case No. 2:15-CR-182 TS

District Judge Ted Stewart

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This matter is before the Court on Defendant’s Motion Requesting Production of Documents for Defense Criminal Case. Defendant seeks a copy of his sentencing transcript so that he may prepare a motion under 28 U.S.C. § 2255.

28 U.S.C. § 753(f) provides that transcripts must be provided at the expense of the United States in certain circumstances. “Under 28 U.S.C. § 753(f), an indigent defendant is entitled to have the government pay the fees for a copy of his transcript in a 2255 proceeding only if he demonstrates that his suit is not frivolous and that the transcript is needed to decide the issue presented by the suit.”<sup>1</sup> Defendant has failed to make such a showing. Therefore, the Court must deny Defendant’s Motion at this time, but will do so without prejudice to its later refiling.

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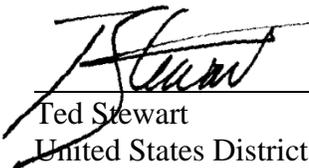
<sup>1</sup> *Sistrunk v. United States*, 992 F.2d 258, 259 (10th Cir. 1993); *see also* 28 U.S.C. § 753(f) (“Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal”).

It is therefore

ORDERED that Defendant's Motion Requesting Production of Documents for Defense Criminal Case (Docket No. 59) is DENIED WITHOUT PREJUDICE.

DATED this 18th day of May, 2016.

BY THE COURT:



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Ted Stewart  
United States District Judge